

111TH CONGRESS
1ST SESSION

H. R. 122

To amend title 18, United States Code, and the Social Security Act to limit the misuse of Social Security numbers, to establish criminal penalties for such misuse, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 2009

Mr. FRELINGHUYSEN introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 18, United States Code, and the Social Security Act to limit the misuse of Social Security numbers, to establish criminal penalties for such misuse, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Protecting the Privacy of Social Security Numbers Act
6 of 2009”.

1 (b) TABLE OF CONTENTS.—The table of contents of
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Prohibition of the display, sale, or purchase of Social Security numbers.
- Sec. 4. Application of prohibition of the display, sale, or purchase of Social Security numbers to public records.
- Sec. 5. Rulemaking authority of the Attorney General.
- Sec. 6. Treatment of Social Security numbers on government documents.
- Sec. 7. Limits on personal disclosure of a Social Security number for consumer transactions.
- Sec. 8. Extension of civil monetary penalties for misuse of a Social Security number.
- Sec. 9. Criminal penalties for the misuse of a Social Security number.
- Sec. 10. Civil actions and civil penalties.
- Sec. 11. Federal injunctive authority.

3 **SEC. 2. FINDINGS.**

4 Congress makes the following findings:

5 (1) The inappropriate display, sale, or purchase
 6 of Social Security numbers has contributed to a
 7 growing range of illegal activities, including fraud,
 8 identity theft, and, in some cases, stalking and other
 9 violent crimes.

10 (2) While financial institutions, health care pro-
 11 viders, and other entities have often used Social Se-
 12 curity numbers to confirm the identity of an indi-
 13 vidual, the general display to the public, sale, or pur-
 14 chase of these numbers has been used to commit
 15 crimes, and also can result in serious invasions of in-
 16 dividual privacy.

17 (3) The Federal Government requires virtually
 18 every individual in the United States to obtain and
 19 maintain a Social Security number in order to pay

1 taxes, to qualify for Social Security benefits, or to
2 seek employment. An unintended consequence of
3 these requirements is that Social Security numbers
4 have become one of the tools that can be used to fa-
5 cilitate crime, fraud, and invasions of the privacy of
6 the individuals to whom the numbers are assigned.
7 Because the Federal Government created and main-
8 tains this system, and because the Federal Govern-
9 ment does not permit individuals to exempt them-
10 selves from those requirements, it is appropriate for
11 the Federal Government to take steps to stem the
12 abuse of Social Security numbers.

13 (4) The display, sale, or purchase of Social Se-
14 curity numbers in no way facilitates uninhibited, ro-
15 bust, and wide-open public debate, and restrictions
16 on such display, sale, or purchase would not affect
17 public debate.

18 (5) No one should seek to profit from the dis-
19 play, sale, or purchase of Social Security numbers in
20 circumstances that create a substantial risk of phys-
21 ical, emotional, or financial harm to the individuals
22 to whom those numbers are assigned.

23 (6) Consequently, this Act provides each indi-
24 vidual that has been assigned a Social Security num-
25 ber some degree of protection from the display, sale,

1 and purchase of that number in any circumstance
 2 that might facilitate unlawful conduct.

3 **SEC. 3. PROHIBITION OF THE DISPLAY, SALE, OR PUR-**
 4 **CHASE OF SOCIAL SECURITY NUMBERS.**

5 (a) PROHIBITION.—

6 (1) IN GENERAL.—Chapter 47 of title 18,
 7 United States Code, is amended by inserting after
 8 section 1028A the following:

9 **“§ 1028B. Prohibition of the display, sale, or purchase**
 10 **of Social Security numbers**

11 “(a) DEFINITIONS.—In this section:

12 “(1) DISPLAY.—The term ‘display’ means to in-
 13 tentiously communicate or otherwise make available
 14 (on the Internet or in any other manner) to the gen-
 15 eral public an individual’s Social Security number.

16 “(2) PERSON.—The term ‘person’ means any
 17 individual, partnership, corporation, trust, estate, co-
 18 operative, association, or any other entity.

19 “(3) PURCHASE.—The term ‘purchase’ means
 20 providing directly or indirectly, anything of value in
 21 exchange for a Social Security number.

22 “(4) SALE.—The term ‘sale’ means obtaining,
 23 directly or indirectly, anything of value in exchange
 24 for a Social Security number.

1 “(5) STATE.—The term ‘State’ means any
2 State of the United States, the District of Columbia,
3 Puerto Rico, the Northern Mariana Islands, the
4 United States Virgin Islands, Guam, American
5 Samoa, and any territory or possession of the
6 United States.

7 “(b) LIMITATION ON DISPLAY.—Except as provided
8 in section 1028C, no person may display any individual’s
9 Social Security number to the general public without the
10 affirmatively expressed consent of the individual.

11 “(c) LIMITATION ON SALE OR PURCHASE.—Except
12 as otherwise provided in this section, no person may sell
13 or purchase any individual’s Social Security number with-
14 out the affirmatively expressed consent of the individual.

15 “(d) PREREQUISITES FOR CONSENT.—In order for
16 consent to exist under subsection (b) or (c), the person
17 displaying or seeking to display, selling or attempting to
18 sell, or purchasing or attempting to purchase, an individ-
19 ual’s Social Security number shall—

20 “(1) inform the individual of the general pur-
21 pose for which the number will be used, the types of
22 persons to whom the number may be available, and
23 the scope of transactions permitted by the consent;
24 and

1 “(2) obtain the affirmatively expressed consent
2 (electronically or in writing) of the individual.

3 “(e) EXCEPTIONS.—Nothing in this section shall be
4 construed to prohibit or limit the display, sale, or purchase
5 of a Social Security number—

6 “(1) required, authorized, or excepted under
7 any Federal law;

8 “(2) for a public health purpose, including the
9 protection of the health or safety of an individual in
10 an emergency situation;

11 “(3) for a national security purpose;

12 “(4) for a law enforcement purpose, including
13 the investigation of fraud and the enforcement of a
14 child support obligation;

15 “(5) if the display, sale, or purchase of the
16 number is for a use occurring as a result of an inter-
17 action between businesses, governments, or business
18 and government (regardless of which entity initiates
19 the interaction), including, but not limited to—

20 “(A) the prevention of fraud (including
21 fraud in protecting an employee’s right to em-
22 ployment benefits);

23 “(B) the facilitation of credit checks or the
24 facilitation of background checks of employees,
25 prospective employees, or volunteers;

1 “(C) the retrieval of other information
2 from other businesses, commercial enterprises,
3 government entities, or private nonprofit orga-
4 nizations; or

5 “(D) when the transmission of the number
6 is incidental to, and in the course of, the sale,
7 lease, franchising, or merger of all, or a portion
8 of, a business;

9 “(6) if the transfer of such a number is part of
10 a data matching program involving a Federal, State,
11 or local agency; or

12 “(7) if such number is required to be submitted
13 as part of the process for applying for any type of
14 Federal, State, or local government benefit or pro-
15 gram;

16 except that, nothing in this subsection shall be construed
17 as permitting a professional or commercial user to display
18 or sell a Social Security number to the general public.

19 “(f) LIMITATION.—Nothing in this section shall pro-
20 hibit or limit the display, sale, or purchase of Social Secu-
21 rity numbers as permitted under title V of the Gramm-
22 Leach-Bliley Act, or for the purpose of affiliate sharing
23 as permitted under the Fair Credit Reporting Act, except
24 that no entity regulated under such Acts may make Social
25 Security numbers available to the general public, as may

1 be determined by the appropriate regulators under such
 2 Acts. For purposes of this subsection, the general public
 3 shall not include affiliates or unaffiliated third-party busi-
 4 ness entities as may be defined by the appropriate regu-
 5 lators.”.

6 (2) CONFORMING AMENDMENT.—The chapter
 7 analysis for chapter 47 of title 18, United States
 8 Code, is amended by inserting after the item relating
 9 to section 1028 the following:

“1028B. Prohibition of the display, sale, or purchase of Social Security num-
 bers.”.

10 (b) STUDY; REPORT.—

11 (1) IN GENERAL.—The Attorney General shall
 12 conduct a study and prepare a report on all of the
 13 uses of Social Security numbers permitted, required,
 14 authorized, or excepted under any Federal law. The
 15 report shall include a detailed description of the uses
 16 allowed as of the date of enactment of this Act, the
 17 impact of such uses on privacy and data security,
 18 and shall evaluate whether such uses should be con-
 19 tinued or discontinued by appropriate legislative ac-
 20 tion.

21 (2) REPORT.—Not later than 1 year after the
 22 date of enactment of this Act, the Attorney General
 23 shall report to Congress findings under this sub-
 24 section. The report shall include such recommenda-

1 tions for legislation based on criteria the Attorney
 2 General determines to be appropriate.

3 (c) EFFECTIVE DATE.—The amendments made by
 4 this section shall take effect on the date that is 30 days
 5 after the date on which the final regulations promulgated
 6 under section 5 are published in the Federal Register.

7 **SEC. 4. APPLICATION OF PROHIBITION OF THE DISPLAY,**
 8 **SALE, OR PURCHASE OF SOCIAL SECURITY**
 9 **NUMBERS TO PUBLIC RECORDS.**

10 (a) PUBLIC RECORDS EXCEPTION.—

11 (1) IN GENERAL.—Chapter 47 of title 18,
 12 United States Code (as amended by section 3(a)(1)),
 13 is amended by inserting after section 1028B the fol-
 14 lowing:

15 **“§ 1028C. Display, sale, or purchase of public records**
 16 **containing Social Security numbers**

17 “(a) DEFINITION.—In this section, the term ‘public
 18 record’ means any governmental record that is made avail-
 19 able to the general public.

20 “(b) IN GENERAL.—Except as provided in sub-
 21 sections (c), (d), and (e), section 1028B shall not apply
 22 to a public record.

23 “(c) PUBLIC RECORDS ON THE INTERNET OR IN AN
 24 ELECTRONIC MEDIUM.—

1 “(1) IN GENERAL.—Section 1028B shall apply
2 to any public record first posted onto the Internet
3 or provided in an electronic medium by, or on behalf
4 of a government entity after the date of enactment
5 of this section, except as limited by the Attorney
6 General in accordance with paragraph (2).

7 “(2) EXCEPTION FOR GOVERNMENT ENTITIES
8 ALREADY PLACING PUBLIC RECORDS ON THE INTER-
9 NET OR IN ELECTRONIC FORM.—Not later than 60
10 days after the date of enactment of this section, the
11 Attorney General shall issue regulations regarding
12 the applicability of section 1028B to any record of
13 a category of public records first posted onto the
14 Internet or provided in an electronic medium by, or
15 on behalf of, a government entity prior to the date
16 of enactment of this section. The regulations will de-
17 termine which individual records within categories of
18 records of these government entities, if any, may
19 continue to be posted on the Internet or in electronic
20 form after the effective date of this section. In pro-
21 mulgating these regulations, the Attorney General
22 may include in the regulations a set of procedures
23 for implementing the regulations and shall consider
24 the following:

1 “(A) The cost and availability of tech-
2 nology available to a governmental entity to re-
3 daact Social Security numbers from public
4 records first provided in electronic form after
5 the effective date of this section.

6 “(B) The cost or burden to the general
7 public, businesses, commercial enterprises, non-
8 profit organizations, and to Federal, State, and
9 local governments of complying with section
10 1028B with respect to such records.

11 “(C) The benefit to the general public,
12 businesses, commercial enterprises, non-profit
13 organizations, and to Federal, State, and local
14 governments if the Attorney General were to
15 determine that section 1028B should apply to
16 such records.

17 Nothing in the regulation shall permit a public enti-
18 ty to post a category of public records on the Inter-
19 net or in electronic form after the effective date of
20 this section if such category had not been placed on
21 the Internet or in electronic form prior to such effec-
22 tive date.

23 “(d) HARVESTED SOCIAL SECURITY NUMBERS.—
24 Section 1028B shall apply to any public record of a gov-
25 ernment entity which contains Social Security numbers ex-

1 tracted from other public records for the purpose of dis-
2 playing or selling such numbers to the general public.

3 “(e) ATTORNEY GENERAL RULEMAKING ON PAPER
4 RECORDS.—

5 “(1) IN GENERAL.—Not later than 60 days
6 after the date of enactment of this section, the At-
7 torney General shall determine the feasibility and
8 advisability of applying section 1028B to the records
9 listed in paragraph (2) when they appear on paper
10 or on another nonelectronic medium. If the Attorney
11 General deems it appropriate, the Attorney General
12 may issue regulations applying section 1028B to
13 such records.

14 “(2) LIST OF PAPER AND OTHER NONELEC-
15 TRONIC RECORDS.—The records listed in this para-
16 graph are as follows:

17 “(A) Professional or occupational licenses.

18 “(B) Marriage licenses.

19 “(C) Birth certificates.

20 “(D) Death certificates.

21 “(E) Other short public documents that
22 display a Social Security number in a routine
23 and consistent manner on the face of the docu-
24 ment.

1 “(3) CRITERIA FOR ATTORNEY GENERAL RE-
 2 VIEW.—In determining whether section 1028B
 3 should apply to the records listed in paragraph (2),
 4 the Attorney General shall consider the following:

5 “(A) The cost or burden to the general
 6 public, businesses, commercial enterprises, non-
 7 profit organizations, and to Federal, State, and
 8 local governments of complying with section
 9 1028B.

10 “(B) The benefit to the general public,
 11 businesses, commercial enterprises, non-profit
 12 organizations, and to Federal, State, and local
 13 governments if the Attorney General were to
 14 determine that section 1028B should apply to
 15 such records.”.

16 (2) CONFORMING AMENDMENT.—The chapter
 17 analysis for chapter 47 of title 18, United States
 18 Code (as amended by section 3(a)(2)), is amended
 19 by inserting after the item relating to section 1028B
 20 the following:

 “1028C. Display, sale, or purchase of public records containing Social Security
 numbers.”.

21 (b) STUDY AND REPORT ON SOCIAL SECURITY NUM-
 22 BERS IN PUBLIC RECORDS.—

23 (1) STUDY.—The Comptroller General of the
 24 United States shall conduct a study and prepare a

1 report on Social Security numbers in public records.
2 In developing the report, the Comptroller General
3 shall consult with the Administrative Office of the
4 United States Courts, State and local governments
5 that store, maintain, or disseminate public records,
6 and other stakeholders, including members of the
7 private sector who routinely use public records that
8 contain Social Security numbers.

9 (2) REPORT.—Not later than 1 year after the
10 date of enactment of this Act, the Comptroller Gen-
11 eral of the United States shall submit to Congress
12 a report on the study conducted under paragraph
13 (1). The report shall include a detailed description
14 of the activities and results of the study and rec-
15 ommendations for such legislative action as the
16 Comptroller General considers appropriate. The re-
17 port, at a minimum, shall include—

18 (A) a review of the uses of Social Security
19 numbers in non-Federal public records;

20 (B) a review of the manner in which public
21 records are stored (with separate reviews for
22 both paper records and electronic records);

23 (C) a review of the advantages or utility of
24 public records that contain Social Security
25 numbers, including the utility for law enforce-

1 ment, and for the promotion of homeland secu-
2 rity;

3 (D) a review of the disadvantages or draw-
4 backs of public records that contain Social Se-
5 curity numbers, including criminal activity,
6 compromised personal privacy, or threats to
7 homeland security;

8 (E) the costs and benefits for State and
9 local governments of removing Social Security
10 numbers from public records, including a review
11 of current technologies and procedures for re-
12 moving Social Security numbers from public
13 records; and

14 (F) an assessment of the benefits and
15 costs to businesses, their customers, and the
16 general public of prohibiting the display of So-
17 cial Security numbers on public records (with
18 separate assessments for both paper records
19 and electronic records).

20 (c) EFFECTIVE DATE.—The prohibition with respect
21 to electronic versions of new classes of public records
22 under section 1028C(b) of title 18, United States Code
23 (as added by subsection (a)(1)) shall not take effect until
24 the date that is 60 days after the date of enactment of
25 this Act.

1 **SEC. 5. RULEMAKING AUTHORITY OF THE ATTORNEY GEN-**
2 **ERAL.**

3 (a) IN GENERAL.—Except as provided in subsection
4 (b), the Attorney General may prescribe such rules and
5 regulations as the Attorney General deems necessary to
6 carry out the provisions of section 1028B(e)(5) of title 18,
7 United States Code (as added by section 3(a)(1)).

8 (b) DISPLAY, SALE, OR PURCHASE RULEMAKING
9 WITH RESPECT TO INTERACTIONS BETWEEN BUSI-
10 NESSES, GOVERNMENTS, OR BUSINESS AND GOVERN-
11 MENT.—

12 (1) IN GENERAL.—Not later than 1 year after
13 the date of enactment of this Act, the Attorney Gen-
14 eral, in consultation with the Commissioner of Social
15 Security, the Chairman of the Federal Trade Com-
16 mission, and such other heads of Federal agencies as
17 the Attorney General determines appropriate, shall
18 conduct such rulemaking procedures in accordance
19 with subchapter II of chapter 5 of title 5, United
20 States Code, as are necessary to promulgate regula-
21 tions to implement and clarify the uses occurring as
22 a result of an interaction between businesses, gov-
23 ernments, or business and government (regardless of
24 which entity initiates the interaction) permitted
25 under section 1028B(e)(5) of title 18, United States
26 Code (as added by section 3(a)(1)).

1 (2) FACTORS TO BE CONSIDERED.—In promul-
2 gating the regulations required under paragraph (1),
3 the Attorney General shall, at a minimum, consider
4 the following:

5 (A) The benefit to a particular business, to
6 customers of the business, and to the general
7 public of the display, sale, or purchase of an in-
8 dividual’s Social Security number.

9 (B) The costs that businesses, customers
10 of businesses, and the general public may incur
11 as a result of prohibitions on the display, sale,
12 or purchase of Social Security numbers.

13 (C) The risk that a particular business
14 practice will promote the use of a Social Secu-
15 rity number to commit fraud, deception, or
16 crime.

17 (D) The presence of adequate safeguards,
18 procedures, and technologies to prevent—

19 (i) misuse of Social Security numbers
20 by employees within a business; and

21 (ii) misappropriation of Social Secu-
22 rity numbers by the general public, while
23 permitting internal business uses of such
24 numbers.

1 (E) The presence of procedures to prevent
 2 identity thieves, stalkers, and other individuals
 3 with ill intent from posing as legitimate busi-
 4 nesses to obtain Social Security numbers.

5 (F) The impact of such uses on privacy.

6 **SEC. 6. TREATMENT OF SOCIAL SECURITY NUMBERS ON**
 7 **GOVERNMENT DOCUMENTS.**

8 (a) PROHIBITION OF USE OF SOCIAL SECURITY AC-
 9 COUNT NUMBERS ON CHECKS ISSUED FOR PAYMENT BY
 10 GOVERNMENTAL AGENCIES.—

11 (1) IN GENERAL.—Section 205(c)(2)(C) of the
 12 Social Security Act (42 U.S.C. 405(c)(2)(C)) is
 13 amended by adding at the end the following:

14 “(x) No Federal, State, or local agency may display
 15 the Social Security account number of any individual, or
 16 any derivative of such number, on any check issued for
 17 any payment by the Federal, State, or local agency.”.

18 (2) EFFECTIVE DATE.—The amendment made
 19 by this subsection shall apply with respect to viola-
 20 tions of section 205(c)(2)(C)(x) of the Social Secu-
 21 rity Act (42 U.S.C. 405(c)(2)(C)(x)), as added by
 22 paragraph (1), occurring after the date that is 3
 23 years after the date of enactment of this Act.

24 (b) PROHIBITION OF INMATE ACCESS TO SOCIAL SE-
 25 CURITY ACCOUNT NUMBERS.—

1 (1) IN GENERAL.—Section 205(c)(2)(C) of the
 2 Social Security Act (42 U.S.C. 405(c)(2)(C)) (as
 3 amended by subsection (b)) is amended by adding at
 4 the end the following:

5 “(xi) No Federal, State, or local agency may employ,
 6 or enter into a contract for the use or employment of, pris-
 7 oners in any capacity that would allow such prisoners ac-
 8 cess to the Social Security account numbers of other indi-
 9 viduals. For purposes of this clause, the term ‘prisoner’
 10 means an individual confined in a jail, prison, or other
 11 penal institution or correctional facility pursuant to such
 12 individual’s conviction of a criminal offense.”.

13 (2) EFFECTIVE DATE.—The amendment made
 14 by this subsection shall apply with respect to em-
 15 ployment of prisoners, or entry into contract with
 16 prisoners, after the date that is 1 year after the date
 17 of enactment of this Act.

18 **SEC. 7. LIMITS ON PERSONAL DISCLOSURE OF A SOCIAL**
 19 **SECURITY NUMBER FOR CONSUMER TRANS-**
 20 **ACTIONS.**

21 (a) IN GENERAL.—Part A of title XI of the Social
 22 Security Act (42 U.S.C. 1301 et seq.) is amended by add-
 23 ing at the end the following:

1 **“SEC. 1150A. LIMITS ON PERSONAL DISCLOSURE OF A SO-**
2 **CIAL SECURITY NUMBER FOR CONSUMER**
3 **TRANSACTIONS.**

4 “(a) IN GENERAL.—A commercial entity may not re-
5 quire an individual to provide the individual’s Social Secu-
6 rity number when purchasing a commercial good or service
7 or deny an individual the good or service for refusing to
8 provide that number except—

9 “(1) for any purpose relating to—

10 “(A) obtaining a consumer report for any
11 purpose permitted under the Fair Credit Re-
12 porting Act;

13 “(B) a background check of the individual
14 conducted by a landlord, lessor, employer, vol-
15 untary service agency, or other entity as deter-
16 mined by the Attorney General;

17 “(C) law enforcement; or

18 “(D) a Federal, State, or local law require-
19 ment; or

20 “(2) if the Social Security number is necessary
21 to verify the identity of the consumer to effect, ad-
22 minister, or enforce the specific transaction re-
23 quested or authorized by the consumer, or to prevent
24 fraud.

1 “(b) APPLICATION OF CIVIL MONEY PENALTIES.—
 2 A violation of this section shall be deemed to be a violation
 3 of section 1129(a)(3)(F).

4 “(c) APPLICATION OF CRIMINAL PENALTIES.—A vio-
 5 lation of this section shall be deemed to be a violation of
 6 section 208(a)(8).

7 “(d) LIMITATION ON CLASS ACTIONS.—No class ac-
 8 tion alleging a violation of this section shall be maintained
 9 under this section by an individual or any private party
 10 in Federal or State court.

11 “(e) STATE ATTORNEY GENERAL ENFORCEMENT.—

12 “(1) IN GENERAL.—

13 “(A) CIVIL ACTIONS.—In any case in
 14 which the attorney general of a State has rea-
 15 son to believe that an interest of the residents
 16 of that State has been or is threatened or ad-
 17 versely affected by the engagement of any per-
 18 son in a practice that is prohibited under this
 19 section, the State, as *parens patriae*, may bring
 20 a civil action on behalf of the residents of the
 21 State in a district court of the United States of
 22 appropriate jurisdiction to—

23 “(i) enjoin that practice;

24 “(ii) enforce compliance with such
 25 section;

1 “(iii) obtain damages, restitution, or
2 other compensation on behalf of residents
3 of the State; or

4 “(iv) obtain such other relief as the
5 court may consider appropriate.

6 “(B) NOTICE.—

7 “(i) IN GENERAL.—Before filing an
8 action under subparagraph (A), the attor-
9 ney general of the State involved shall pro-
10 vide to the Attorney General—

11 “(I) written notice of the action;

12 and

13 “(II) a copy of the complaint for
14 the action.

15 “(ii) EXEMPTION.—

16 “(I) IN GENERAL.—Clause (i)
17 shall not apply with respect to the fil-
18 ing of an action by an attorney gen-
19 eral of a State under this subsection,
20 if the State attorney general deter-
21 mines that it is not feasible to provide
22 the notice described in such subpara-
23 graph before the filing of the action.

24 “(II) NOTIFICATION.—With re-
25 spect to an action described in sub-

1 clause (I), the attorney general of a
2 State shall provide notice and a copy
3 of the complaint to the Attorney Gen-
4 eral at the same time as the State at-
5 torney general files the action.

6 “(2) INTERVENTION.—

7 “(A) IN GENERAL.—On receiving notice
8 under paragraph (1)(B), the Attorney General
9 shall have the right to intervene in the action
10 that is the subject of the notice.

11 “(B) EFFECT OF INTERVENTION.—If the
12 Attorney General intervenes in the action under
13 paragraph (1), the Attorney General shall have
14 the right to be heard with respect to any matter
15 that arises in that action.

16 “(3) CONSTRUCTION.—For purposes of bring-
17 ing any civil action under paragraph (1), nothing in
18 this section shall be construed to prevent an attor-
19 ney general of a State from exercising the powers
20 conferred on such attorney general by the laws of
21 that State to—

22 “(A) conduct investigations;

23 “(B) administer oaths or affirmations; or

1 “(C) compel the attendance of witnesses or
2 the production of documentary and other evi-
3 dence.

4 “(4) ACTIONS BY THE ATTORNEY GENERAL OF
5 THE UNITED STATES.—In any case in which an ac-
6 tion is instituted by or on behalf of the Attorney
7 General for violation of a practice that is prohibited
8 under this section, no State may, during the pend-
9 ency of that action, institute an action under para-
10 graph (1) against any defendant named in the com-
11 plaint in that action for violation of that practice.

12 “(5) VENUE; SERVICE OF PROCESS.—

13 “(A) VENUE.—Any action brought under
14 paragraph (1) may be brought in the district
15 court of the United States that meets applicable
16 requirements relating to venue under section
17 1391 of title 28, United States Code.

18 “(B) SERVICE OF PROCESS.—In an action
19 brought under paragraph (1), process may be
20 served in any district in which the defendant—

21 “(i) is an inhabitant; or

22 “(ii) may be found.

23 “(f) SUNSET.—This section shall not apply on or
24 after the date that is 6 years after the effective date of
25 this section.”.

1 (b) EVALUATION AND REPORT.—Not later than the
2 date that is 6 years and 6 months after the date of enact-
3 ment of this Act, the Attorney General, in consultation
4 with the chairman of the Federal Trade Commission, shall
5 issue a report evaluating the effectiveness and efficiency
6 of section 1150A of the Social Security Act (as added by
7 subsection (a)) and shall make recommendations to Con-
8 gress as to any legislative action determined to be nec-
9 essary or advisable with respect to such section, including
10 a recommendation regarding whether to reauthorize such
11 section.

12 (c) EFFECTIVE DATE.—The amendment made by
13 subsection (a) shall apply to requests to provide a Social
14 Security number occurring after the date that is 1 year
15 after the date of enactment of this Act.

16 **SEC. 8. EXTENSION OF CIVIL MONETARY PENALTIES FOR**
17 **MISUSE OF A SOCIAL SECURITY NUMBER.**

18 (a) APPLICATION OF CIVIL MONEY PENALTIES TO
19 ELEMENTS OF CRIMINAL VIOLATIONS.—Section 1129(a)
20 of the Social Security Act (42 U.S.C. 1320a–8(a)) is
21 amended—

22 (1) by redesignating paragraph (3) as para-
23 graph (4);

1 (2) by redesignating the last sentence of para-
2 graph (1) as paragraph (2) and inserting such para-
3 graph after paragraph (1); and

4 (3) by inserting after paragraph (2) (as so re-
5 designated) the following:

6 “(3) Any person (including an organization, agency,
7 or other entity) who—

8 “(A) uses a Social Security account number
9 that such person knows or should know has been as-
10 signed by the Commissioner of Social Security (in an
11 exercise of authority under section 205(c)(2) to es-
12 tablish and maintain records) on the basis of false
13 information furnished to the Commissioner by any
14 person;

15 “(B) falsely represents a number to be the So-
16 cial Security account number assigned by the Com-
17 missioner of Social Security to any individual, when
18 such person knows or should know that such number
19 is not the Social Security account number assigned
20 by the Commissioner to such individual;

21 “(C) knowingly alters a Social Security card
22 issued by the Commissioner of Social Security, or
23 possesses such a card with intent to alter it;

24 “(D) knowingly displays, sells, or purchases a
25 card that is, or is purported to be, a card issued by

1 the Commissioner of Social Security, or possesses
2 such a card with intent to display, purchase, or sell
3 it;

4 “(E) counterfeits a Social Security card, or pos-
5 sesses a counterfeit Social Security card with intent
6 to display, sell, or purchase it;

7 “(F) discloses, uses, compels the disclosure of,
8 or knowingly displays, sells, or purchases the Social
9 Security account number of any person in violation
10 of the laws of the United States;

11 “(G) with intent to deceive the Commissioner of
12 Social Security as to such person’s true identity (or
13 the true identity of any other person) furnishes or
14 causes to be furnished false information to the Com-
15 missioner with respect to any information required
16 by the Commissioner in connection with the estab-
17 lishment and maintenance of the records provided
18 for in section 205(c)(2);

19 “(H) offers, for a fee, to acquire for any indi-
20 vidual, or to assist in acquiring for any individual,
21 an additional Social Security account number or a
22 number which is or is purported to be a Social Secu-
23 rity account number; or

24 “(I) being an officer or employee of a Federal,
25 State, or local agency in possession of any individ-

1 ual's Social Security account number, willfully acts
2 or fails to act so as to cause a violation by such
3 agency of clause (vi)(II) or (x) of section
4 205(c)(2)(C),
5 shall be subject to, in addition to any other penalties that
6 may be prescribed by law, a civil money penalty of not
7 more than \$5,000 for each violation. Such person shall
8 also be subject to an assessment, in lieu of damages sus-
9 tained by the United States resulting from such violation,
10 of not more than twice the amount of any benefits or pay-
11 ments paid as a result of such violation.”.

12 (b) EFFECTIVE DATES.—

13 (1) IN GENERAL.—Except as provided in para-
14 graph (2), the amendments made by this section
15 shall apply with respect to violations of section 1129
16 of the Social Security Act (42 U.S.C. 1320–8), as
17 amended by this section, committed after the date of
18 the enactment of this Act.

19 (2) VIOLATIONS BY GOVERNMENT AGENTS IN
20 POSSESSION OF SOCIAL SECURITY NUMBERS.—Sec-
21 tion 1129(a)(3)(I) of the Social Security Act (42
22 U.S.C. 1320a–8(a)(3)(I)), as added by subsection
23 (a), shall apply with respect to violations of that sec-
24 tion occurring on or after the effective date de-
25 scribed in section 3(c).

1 **SEC. 9. CRIMINAL PENALTIES FOR THE MISUSE OF A SO-**
2 **CIAL SECURITY NUMBER.**

3 (a) PROHIBITION OF WRONGFUL USE AS PERSONAL
4 IDENTIFICATION NUMBER.—No person may obtain any
5 individual’s Social Security number for purposes of locat-
6 ing or identifying an individual with the intent to phys-
7 ically injure, harm, or use the identity of the individual
8 for any illegal purpose.

9 (b) CRIMINAL SANCTIONS.—Section 208(a) of the
10 Social Security Act (42 U.S.C. 408(a)) is amended—

11 (1) in paragraph (8), by adding “or” after the
12 semicolon; and

13 (2) by inserting after paragraph (8) the fol-
14 lowing:

15 “(9) except as provided in subsections (e) and
16 (f) of section 1028B of title 18, United States Code,
17 knowingly and willfully displays, sells, or purchases
18 (as those terms are defined in section 1028B(a) of
19 title 18, United States Code) any individual’s Social
20 Security account number without having met the
21 prerequisites for consent under section 1028B(d) of
22 title 18, United States Code; or

23 “(10) obtains any individual’s Social Security
24 number for the purpose of locating or identifying the
25 individual with the intent to injure or to harm that

1 individual, or to use the identity of that individual
2 for an illegal purpose;”.

3 **SEC. 10. CIVIL ACTIONS AND CIVIL PENALTIES.**

4 (a) CIVIL ACTION IN STATE COURTS.—

5 (1) IN GENERAL.—Any individual aggrieved by
6 an act of any person in violation of this Act or any
7 amendments made by this Act may, if otherwise per-
8 mitted by the laws or rules of the court of a State,
9 bring in an appropriate court of that State—

10 (A) an action to enjoin such violation;

11 (B) an action to recover for actual mone-
12 tary loss from such a violation, or to receive up
13 to \$500 in damages for each such violation,
14 whichever is greater; or

15 (C) both such actions.

16 It shall be an affirmative defense in any action
17 brought under this paragraph that the defendant
18 has established and implemented, with due care, rea-
19 sonable practices and procedures to effectively pre-
20 vent violations of the provisions of this Act, the
21 amendments made by this Act, or regulations pre-
22 scribed under this Act or such amendments. If the
23 court finds that the defendant willfully or knowingly
24 violated any such provision, the court may, in its
25 discretion, increase the amount of the award to an

1 amount equal to not more than 3 times the amount
2 available under subparagraph (B).

3 (2) STATUTE OF LIMITATIONS.—An action may
4 be commenced under this subsection not later than
5 the earlier of—

6 (A) 5 years after the date on which the al-
7 leged violation occurred; or

8 (B) 3 years after the date on which the al-
9 leged violation was or should have been reason-
10 ably discovered by the aggrieved individual.

11 (3) NONEXCLUSIVE REMEDY.—The remedy pro-
12 vided under this subsection shall be in addition to
13 any other remedies available to the individual.

14 (b) CIVIL PENALTIES.—

15 (1) IN GENERAL.—Any person who the Attor-
16 ney General determines has violated any provision of
17 this Act or the amendments made by this Act shall
18 be subject, in addition to any other penalties that
19 may be prescribed by law—

20 (A) to a civil penalty of not more than
21 \$5,000 for each such violation; and

22 (B) to a civil penalty of not more than
23 \$50,000, if the violations have occurred with
24 such frequency as to constitute a general busi-
25 ness practice.

1 (2) DETERMINATION OF VIOLATIONS.—Any
2 willful violation committed contemporaneously with
3 respect to the Social Security numbers of 2 or more
4 individuals by means of mail, telecommunication, or
5 otherwise, shall be treated as a separate violation
6 with respect to each such individual.

7 (3) ENFORCEMENT PROCEDURES.—The provi-
8 sions of section 1128A of the Social Security Act
9 (42 U.S.C. 1320a–7a), other than subsections (a),
10 (b), (f), (h), (i), (j), (m), and (n) and the first sen-
11 tence of subsection (c) of such section, and the pro-
12 visions of subsections (d) and (e) of section 205 of
13 such Act (42 U.S.C. 405) shall apply to a civil pen-
14 alty action under this subsection in the same man-
15 ner as such provisions apply to a penalty or pro-
16 ceeding under section 1128A(a) of such Act (42
17 U.S.C. 1320a–7a(a)), except that, for purposes of
18 this paragraph, any reference in section 1128A of
19 such Act (42 U.S.C. 1320a–7a) to the Secretary
20 shall be deemed to be a reference to the Attorney
21 General.

22 **SEC. 11. FEDERAL INJUNCTIVE AUTHORITY.**

23 In addition to any other enforcement authority con-
24 ferred under this Act or the amendments made by this
25 Act, the Federal Government shall have injunctive author-

1 ity with respect to any violation by a public entity of any
2 provision of this Act or of any amendments made by this
3 Act.

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